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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,195

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David Bottomley

HGF10

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EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

02/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/586,195	BOTTOMLEY ET AL.	
	Examiner	Art Unit	
	ERNESTO GARCIA	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) 10-30 and 33-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/04/06, 7/14/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

The preliminary amendment to the claims filed on July 14, 2006 does not comply with 37 CFR 1.121. Claims 31 and 32 have been identified as being cancelled. However, the text is still present. The examiner has corrected claims 31 and 32 (see attached copy of claim set) so that these cancelled claims do not include the claim text. Any future response must fully conform to the requirements of 37 CFR 1.121 in order to avoid a Notice of Non-Compliance.

### *Restriction and Election of Species*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-21, drawn to a bracket.

Group II, claims 22-30, drawn to a method of engaging a bracket.

Group III, claims 33-38, drawn to a frame.

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The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

an assessment of the prior art with respect to the independent claims provides no unity of invention since the "special technical features", i.e., "at least one recessed region" common in each of the independent claims is known from patents, e.g., Murphy et al., USP 5,071,281. Applicant should note that the lack of unity is based on a *posteriori* and the special technical features, common to all species, do not define a contribution over the prior. See MPEP 1850.

Further, this application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- I. Figures 9A and 9B.
- II. Figure not shown (arm portions extending perpendicularly from the upper face and/or lower face of the body portion (page 3, lines 12-14).

Figures 1 and 2 are prior art and Figures 3A-8 and 10A-10D are generic to all species.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 6-9 correspond to Species I.

Claims 10-21 correspond to Species II.

The following claim(s) are generic: claims 1-5 appear generic.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

species I lacks an arm portion extending perpendicularly from the upper face and/or lower face of the body portion, which excludes species I.

During a telephone conversation with Mr. Ryan A. Schneider on February 17, 2009 a provisional election was made without traverse to prosecute the invention of Group I, and Species I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-30 and 33-38 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

*Drawings*

Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate square grooves (Figures 6B), concave grooves extending downwardly (Figure 6C), and concave grooves extending upwardly (Figure 6D).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both square grooves with planar walls (Figures 6B; side walls), and square grooves with a curved wall (Figure 6B; on top wall).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18' " has been used to designate both an aperture that is half the size of a full aperture (Figure 9B) and another aperture that is in full size (Figure 9B).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "13a", "13b", and "13c" have both been used to designate the same edge protrusion (Figures 6A-6D).

The drawings are objected to because the cross-hatching is missing in Figures 3B, 6B, 6C, and 6D since the figures are showing cross-sectional views. The dashed lines in Figure 3A representing the recessed region 7 and the aperture 8 should be shown in solid since Figure 3A shows a plan view. Further, it is unclear why the opening 18' in the horizontal strut of Figure 9B is different than the other opening 18' in the vertical strut in Figure 9B. One of the reference characters "15" in Figure 5 is missing the lead line.

Further, the plane upon which sectional view, Figure 3B, is taken should be indicated on the view, Figure 3A, from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight. See 37 CFR 1.84(h)(3) and MPEP 608.02(e).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

The disclosure is objected to because of the following informalities: the reference to "claims 1 to 21" on page 4, line 17, is improper. Note, the specification is not a living document and the scope of "claims 1 to 21" is likely to change during the course of



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prosecution. Accordingly, the "features" being referred to must be specifically identified. Appropriate correction is required.

### *Claim Objections*

Claims 1 and 2 are objected to because of the following informalities:

regarding claim 1, a comma should be inserted after "struts" and --one or more-- should be inserted after the second occurrence of "the" in line 2; and,

regarding claims 2 and 3, --the-- should be inserted before "at" in line 1.

Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2 and 3, the claims set to define an arrangement of the grooves and the recessed region. However, the claim does not set forth how the grooves and the recessed portion are arranged.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al., 5,071,281.

Regarding claim 1, Murphy et al. discloses, in Figure 3, a bracket comprising a body portion A1 (see marked-up attachment) and one or more arm portions 17 extending from the body portion A1. The arm portions 17 include at least one pair of parallel grooves 13 and at least one recessed region A2. Applicants should note that the parallel grooves 13 can be adapted to releasably engage complementary lips of the strut and the recessed region A2 can be adapted to securely engage one or more crimped portions of a strut.

Regarding claims 2 and 3, the grooves 13 and the recessed region A2 are arranged.

Regarding claim 4, the body portion comprises an upper face A3, lower face A4, and side faces A5.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morice, FR-1,514,258, in view of Murphy et al., 5,071,281.

Regarding claim 1, Morice et al. disclose, in Figures 1, 3-5, and 7, a bracket comprising a body portion 1 and one or more arm portions 3, 4 extending from the body portion 1. The arm portions 3, 4 include at least one recessed region 2. Applicants should note that the recessed region A2 can be adapted to securely engage one or more crimped portions of a strut. However, Morice et al. fail to disclose the arm portions having at least one pair of parallel grooves 13. Murphy et al. teaches arm portions 17

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having at least one pair of parallel grooves 13 to assist in trapping glue therein which acts to key or hold a bracket. Therefore, as taught by Murphy et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the arm portions with parallel grooves to assist in trapping glue therein which acts to key or hold the bracket. Given the modification, the parallel grooves 13 would have been able to be adapted to releasably engage complementary lips of the strut.

Regarding claims 2 and 3, the grooves 13 and the recessed region A2 are arranged.

Regarding claim 4, the body portion 1 comprises an upper face, a lower face, and side faces.

Regarding claim 5, the one or more arm portions 3, 4 would have extended perpendicularly from the side faces of the body portion.

Regarding claim 6, given the modification, the bracket would have been I-shaped comprising two of the arm portions 3, 4 extending perpendicularly from two opposing side faces of the body portion (see Fig. 5 or Fig. 6.).

Regarding claim 7, given the modification, the bracket would have been L-shaped comprising two or the arm portions 3, 4 extending perpendicularly from two adjacent side faces of the body portion (see Fig. 5 or Fig. 6).

Regarding claim 8, the bracket would have been T-shaped comprising three arm portions 3, 4 extending perpendicularly from three of side faces of the body portion 1 (see Fig. 5 or Fig. 6).

Regarding claim 9, given the modification, the bracket would have been cross-shaped comprising four arm portions 3, 4 extending perpendicularly from four side faces of the body portion 1 (see Figure 7).

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keen, 4,678,359, teaches a similar bracket.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

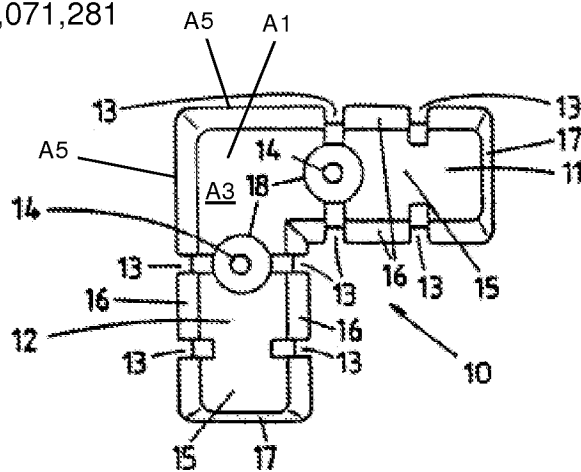
February 24, 2009

Attachment(s): one marked-up page of Murphy et al., 5,071,281

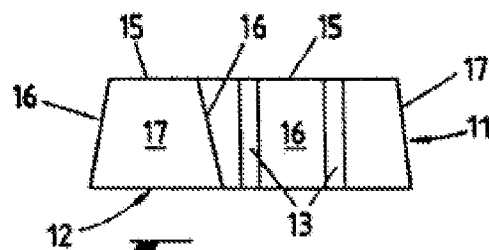
/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679

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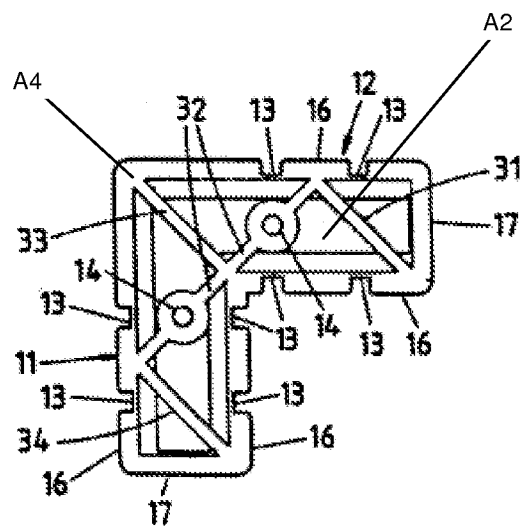
Murphy et al., 5,071,281



**FIG 1**



**FIG 2**



**FIG 3**